

REMARKS

The last Office Action has been carefully considered.

It is noted that Claims 1-12 are rejected under 35 USC 102(b) over the U.S. patent to Miyahara.

In the present Amendment applicants first of all amended the specification to provide corresponding headings, eliminate references to the claims, and make a reference to the priority application, in compliance with the requirements of U.S. patent practice.

After carefully considering the Examiner's grounds for rejection of the claims over the art, Claim 1, the broadest claim on file, has been amended, and also independent Claims 13, 14 and 15 has been added.

It is respectfully submitted that the new features of the present invention which are defined in Claims 1 and 13-15 clearly and patentably distinguish the present invention from the prior art applied by the Examiner.

The patent to Miyahara discloses a surveying apparatus detecting relative angular positions of a projector and range finder. The device disclosed in

the patent to Miyahara can determine differences between a base station and a satellite in form of a deflecting mirror. The device of the Miyahara however does not have any means for producing marking on a predetermined location, in particular on the position of the second equipment unit which is positionable relative to the first equipment unit.

It is therefore believed to be clear that this reference does not disclose the new features of the present invention as defined in Claim 1.

Claim 13 additionally defines that in the inventive device for positioning markings, the optical signal means are self-leveling optical signal means. The features of this claim are not disclosed in the reference.

As specifically explained in lines 10-15 on page 4 of the specification, the self-leveling can be implemented by providing that the laser forming the optical signal means is embodied at a so-called pendulum laser which is self-leveling in the gravitational field, so that the light emitted by the first equipment unit extends exactly horizontally. The patent to Miyahara does not disclose such a self-leveling in the gravitational field of the earth.

In his rejection of original Claim 7, the Examiner indicated that the patent to Miyahara disclosed a device that is automatic, and this meets the

limitation of a device in which the optical signal means are self-leveling. This statement however is inaccurate. As disclosed for example in column 3, starting from line 3 of the patent to Miyahara, the laser projector (11) is set via a horizontal rotating motor (14a) and a vertical rotating motor (14b) to be rotatable in all directions. Such a motor-driven position of the laser projector (11) is absolutely necessary for the device disclosed in the patent to Miyahara to deviate the light signal b1 to the receiver (21) of the second unit (20). If the laser projector (11) in the device disclosed in the patent to Miyahara was self-leveling, the laser signal would not reach the reflector or the target screen (21).

It is specifically disclosed in column 5, starting from line 18:

“The laser projector (11) and range finder (12) are driven to radiate the laser beams b1 and b2 by operating the input device (34) in the data processing unit (30). At this time, if the laser beams b1, b2 do not impinge on the screen (21) and reflecting target (23), respectively, the combined laser projector (11) and range finder (12) are adjusted horizontally and vertically by manually inputting the driving command signals lh, lv to the input device (34) in the data processing unit (30) until the laser beam b1 impinges on the screen (21) and the laser beam b2 is reflected by the reflecting target (23) and sent back to the range finder (12).”

This reference therefore discloses only possibility to actively control the signal means, and there is nothing to suggest or make possible to provide self-leveling.

Claim 14 additionally defines that the device has marking means which makes it possible to mark a second position of the reference face (16). These new features of the present invention as defined in Claim 14 are not disclosed in the reference.

Claim 15 additionally defines that the first or the second equipment unit has display means which permit to reproduce the spacing value. The features of this claim are also not disclosed in the reference. The Miyahara reference discloses an external computer (30) connected to the second unit and providing a corresponding reading.

It is therefore respectfully submitted that all above analyzed claims should be considered as patentably distinguishing over the art and should be allowed, together with the dependent claims.

Reconsideration and allowance of the present application with all the claims currently on file, is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance; he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', with a long horizontal flourish extending to the right.

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